THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT APPEAL No.200 of 2004

10 October 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated04.07.2003 in W.P.No.2362 of 1993 on the file of the High Court)

Between:

Sri Maharaja Alak Narayana Sciences Arts & Society,
Rep. by its Executive Officer, Vizianagaram,
Vizianagaram District.

.. Appellant.

And

Buddepu Narayana Murthy,
S/o late Subba Rao and two others.

.. Respondents.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT APPEAL No.200 of 2004

JUDGMENT: (Per Hon'ble Sri Justice B.Prakash Rao)

Heard Sri M. Adinarayana Raju, learned counsel appearing for the appellant and Sri N.V.Ranganadham, learned counsel appearing for respondent Nos.1 and 2 and the learned Government Pleader appearing for the third respondent.

The appellant herein, who is the second respondent, seeks to assail the order dated 04.07.2003 in W.P.No.2362 of 1993 filed at the instance of respondent Nos. 1 and 2 herein, allowing the Writ Petition wherein assailing the proceedings dated 09.10.1992 passed by the third respondent herein in a Revision under Section 14-A of the A.P. (A.A.) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act').

Few facts, which are necessary for disposal of this case, are that the claim of the writ petitioners i.e., respondents 1 and 2 was to the effect that one Duvvuru Ramulu and others were original ryots before 1909, who mortgaged the land in question under a registered deed under document No.582/1912 in favour of the mortgagees, who in turn

sold to Suthapalli Appala Narasimhulu under a registered sale deed dated 14.08.1912. According to them, the cist payable to Raja of Vizianagaram was 68 rupees 7 annas and 11 paise in respect of the lands per year and these lands are Zeraiti patta No.9, which is known as Boddu Mohanti Jore Istuva. According to them, it is their claim that the cist was paid by the purchasers into the thana of Zamindar and the said property was again sold under a registered document on 14.06.1932 to Kotha Sanyasi Chetty and subsequently the said property was given to his daughters by him towards 'pasupu kumkuma', who in turn sold the same to Boddepu Subba Rao and his sons Narasimha Murthy and Narayana Murthy under a registered sale deed dated 12.02.1944. The said Boddepu Subba Rao died. Padmavathi and the second petitioner are the legal representatives of the deceased Boddepu Subba Rao and hence, they have been in possession and are entitled to the said properties. However, it was stated that in view of certain civil disputes arose, the present proceedings were initiated by the Zamindar for recovery of the rents and eviction, which led to taking steps for sale of the land for recovery of the arrears. However, the amount was paid and no sale was affected. After the chequered events, the matter was remanded for conducting a detailed enquiry whereby ultimately it was held that the

lands are originally inams and subsequently they were acquired by the Zamindar and was treated as estate and never treated as inam lands. Thus, the provisions have no application and cannot be treated as inam lands. Even though there was an appeal provided under the Statute, without availing the same, the revision was preferred long after three years under Section 14-A of the said Act which was ultimately allowed. Challenging the said orders, the Writ Petition was filed.

Having considered the rival submissions made on both the sides, the learned single Judge allowed the Writ Petition and found that there have been several lacunae especially coming to proper and particular conclusions on the relevant aspects and also the applicability of the provisions of the Act and even in regard to the identity of the lands in question, a serious doubt was also expressed as to whether the land is in fact covered by the documents as claimed. Therefore, the learned single Judge having felt that all these objections including as to the possession and occupancy rights, if any, came to conclusion that the matter requires to be re-considered afresh after holding an enquiry and the matter is remitted to the original authority i.e., Inams Deputy Tahsildar for *de novo* enquiry after giving an opportunity to both the sides and set aside the order dated 09.10.1992,

Even though, several questions are sought to be urged on behalf

of the appellant challenging the said order on merits, the fact remains that all these questions can as well be gone into during the said enquiry and both the sides can substantiate or rebut the same. The observation of the learned single Judge as to various lacunae as pointed out cannot be filled in nor it can be proper to answer in an appeal as against the order of remand especially where there is no material in support either way. Therefore, as rightly held by the learned single Judge that this matter requires to be enquired into and all aspects can be considered including the entitlement and objections thereto as raised by the appellant herein. In these circumstances, we refrain from making any observation or going into any such questions and leave it open to the said Authority to go into the same and consider and pass appropriate orders on merits in accordance with law after giving opportunity to both the sides. Hence, we do not find any merits in this appeal.

The Writ Appeal is accordingly dismissed. In these circumstances, no order as to costs.

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B. PRAKASH RAO, J

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D. APPA RAO, J

10th October 2006.
Chvn.